

No Recourse to Social Work? Statutory Neglect, Social Exclusion and Undocumented Migrant Families in the UK

Jolly, Andy

Veröffentlichungsversion / Published Version
Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Jolly, A. (2018). No Recourse to Social Work? Statutory Neglect, Social Exclusion and Undocumented Migrant Families in the UK. *Social Inclusion*, 6(3), 190-200. <https://doi.org/10.17645/si.v6i3.1486>

Nutzungsbedingungen:

Dieser Text wird unter einer CC BY Lizenz (Namensnennung) zur Verfügung gestellt. Nähere Auskünfte zu den CC-Lizenzen finden Sie hier:
<https://creativecommons.org/licenses/by/4.0/deed.de>

Terms of use:

This document is made available under a CC BY Licence (Attribution). For more Information see:
<https://creativecommons.org/licenses/by/4.0>

Article

No Recourse to Social Work? Statutory Neglect, Social Exclusion and Undocumented Migrant Families in the UK

Andy Jolly

Department of Social Policy, Sociology and Criminology, University of Birmingham, Birmingham, B15 2TT, UK; E-Mail: axj502@bham.ac.uk

Submitted: 19 March 2018 | Accepted: 14 May 2018 | Published: 30 August 2018

Abstract

Families in the UK with an irregular migration status are excluded from most mainstream welfare provision through the no recourse to public funds rule, and statutory children's social work services are one of the few welfare services available to undocumented migrant families. This article draws on semi-structured interviews with undocumented migrant families who are accessing children's services support to illustrate the sometimes uneasy relationship between child welfare law and immigration control. Outlining the legislative and policy context for social work with undocumented migrant families in the UK, the article argues that the exclusion of migrant families from the welfare state by government policy amounts to a form of statutory neglect which is incompatible with the global social work profession's commitment to social justice and human rights.

Keywords

children; destitution; families; irregular migration; neglect; social work; undocumented

Issue

This article is part of the issue "Migration, Boundaries and Differentiated Citizenship", edited by Terry Wotherspoon (University of Saskatchewan, Canada).

© 2018 by the author; licensee Cogitatio (Lisbon, Portugal). This article is licensed under a Creative Commons Attribution 4.0 International License (CC BY).

1. Introduction

We believe in a union not just between the nations of the United Kingdom but between all of our citizens, every one of us, whoever we are and wherever we're from. That means fighting against the burning injustice that, if you're born poor, you will die on average nine years earlier than others. (May, 2016)

The aim is to create, here in Britain, a really hostile environment for illegal immigrants. (Theresa May, cited in Hill, 2017)

Although there are no official data for the numbers of undocumented children living in the UK, the most widely accepted figure is by Sigona & Hughes (2012), who estimate 120,000 children. Undocumented migrants are not legally entitled to seek paid employment, and are subject to the no recourse to public funds (NRPF) rule, a provi-

sion in the Immigration Rules restricting some migrants from entitlement to most mainstream social security benefits, public housing and local authority homelessness assistance (UKVI, 2016b). Most recently, the 2014 and 2016 Immigration Acts have created a legislative framework for criminalising the rental of accommodation to undocumented migrants, new sanctions for illegal workers and their employers, and restrictions on undocumented migrants opening bank accounts or holding driving licenses (JCWI, 2014; UKVI, 2016a). The stated purpose of these measures is to create 'a hostile', or more recently 'compliant' environment for undocumented migrants so that they leave the UK, with the threat of destitution as an incentive (Randall, 2015).

One of the few welfare entitlements which undocumented migrant children are entitled to are 'child in need' services provided by local authorities under section 17 of the Children Act (1989), and the duty under section 11 of the Children Act (2004) to have "regard to

the need to safeguard and promote the welfare of children". However, there are restrictions as to how this duty can be discharged—Schedule 3 of the Nationality, Immigration and Asylum Act (2002) restricts services to adults who are undocumented migrants, and local authorities can discharge their safeguarding duty to families who have no application for leave to remain pending with the Home Office by buying a ticket back to the parental country of origin (*Birmingham City Council v. Clue v. Shelter*, 2010). In the absence of statutory guidance for social work with undocumented migrants, families can be refused support that they are entitled to (Farmer, 2017; Price & Spencer, 2015).

Consequently, unlike social housing (where families are excluded by law), or compulsory schooling (where they are not), social work with undocumented migrant families exists in a contradictory context where immigration law and child welfare law conflict with each other. The death by starvation of Lillian Oluk and her daughter Lynne Mutumba in March 2016, while being supported by a local authority under section 17 of the Children Act (1989), illustrates the consequences of inadequate support for undocumented migrant families in the hostile environment.

1.1. Social Inclusion

The UK government is committed to policies of social inclusion through legislation such as the Equality Act (2010) which prevents discrimination in employment and the provision of goods and services; through measures such as the Social Mobility Index (Social Mobility and Child Poverty Commission, 2016) and the Race Disparity Audit (Cabinet Office, 2017). While there is debate about the extent to which the government is meeting these obligations, there is broad agreement that the government should be committed to them. However, the treatment of undocumented migrants differs from other areas because the government is actively committed to a policy of social exclusion through the 'hostile environment' and exclusions such as the NRPF rule. This is not to deny that other policies can be exclusionary in effect, merely that NRPF is unusual in its explicit exclusionary intent, and its ability to cause destitution by removing means of support through employment or social security benefits (UKVI, 2016b).

This raises the question of how to describe and conceptualise the hostile environment for undocumented migrant children and families, particularly in the context of the ambivalent role of social work, which has been variously described as acting as 'a border guard' (Farmer, 2017) and as exercising 'an unacceptable role' in its relationship to border control (Humphries, 2004), yet remains one of the few welfare entitlements for undocumented children. The social exclusion faced by undocumented migrants as a result of government policy is often theorised in human rights terms (Cunningham & Tomlinson, 2005; Lind, 2014; Webber & Peirce, 2012),

or is analysed in terms of how governments construct migrant illegality (De Genova, 2002) through processes of everyday bordering (Yuval-Davis, Wemyss, & Cassidy, 2018). While these critiques are helpful in providing a framework for understanding the structural aspects of the exclusion families face, they don't engage with the language used at a social work practice level, and so fail to make the link between local exclusionary practices and their structural causes. A framework which utilises the language of social work practice may be a more effective way to highlight some of the contradictions between a profession which is committed to "social justice, human rights, collective responsibility and respect for diversities" (IFSW, 2014), and the implementation of exclusionary policies.

1.2. Research Aims

This research sought to explore whether undocumented migrant families have experiences resulting from exclusionary policy and legislation which would be considered as neglectful if caused by a parent or carer. In order to be suffering from statutory neglect, children's experiences would need to meet two criteria. First, that they meet the commonly defined definition of neglect, and second, that this is a result of exclusionary legislation and policies.

2. Methods

2.1. Sampling

Seventeen semi-structured interviews with fifteen families (including 24 children) took place between October and December 2016. The sample size corresponded to just over 9% of the 163 families with NRPF who were supported by children's services in Birmingham at the end of 2013 (Birmingham City Council, 2013). Families were identified through gatekeepers working with undocumented migrant families and were screened to ensure that they were currently undocumented or had been in the previous 12 months. 98% of eligible families took part, and all had experience of being supported by children's services under section 17 of the Children Act (1989) to prevent destitution. Table 1 illustrates some basic demographic information about participants.

A plurality of families was from West Africa, and a third from the Caribbean. Over half had been in the UK for more than ten years, and had children born in the UK, and more than two thirds had originally come to the UK on a visa and overstayed. All but one of the interviewees were living in female headed lone-parent households. It is difficult to construct a sampling frame for a 'hidden population', but although the sample is purposive, rather than random, the sample was demographically similar to other sources. Birmingham City Council estimates that the majority of those they support are single parents with one child (Birmingham City Council,

Table 1. Demographics of participants.

Region of Origin		Years in UK		Children in Household		Immigration Status	
011(West Africa)	7	0–5	5	1	7	Refused Asylum Seeker	2
029(Caribbean)	5	6–10	2	2	7	Visa Overstayer	11
034 (Southern Asia)	1	11–15	7	3	1	Illegal entrant	1
035 (South-eastern Asia)	1	16–20	1			Other	1
145 (Western Asia)	1						
Total:	15		15		15		15

2013, p. 15). Nationally, Price and Spencer (2015) estimate that 63% of supported families are visa overstayers, and 51% Jamaican and Nigerian nationals (Price & Spencer, 2015, p. 27).

Ethical approval was received from the University of Birmingham research ethics committee (University of Birmingham, 2018). All transcripts were anonymised and pseudonyms used, recognising the particular concerns with being identified that undocumented migrants face, while acknowledging that they also possess agency and capabilities and are not merely passive and vulnerable victims (Lahman, Mendoza, Rodriguez, & Schwartz, 2011). In recognition of the fact that many participants were at risk of destitution, participants were given a £5 voucher to cover the cost of a meal, and a bus pass for the day of the interview.

A limitation of the study is that families were already accessing services, so it is not known how their experiences differ from those who were not in contact with support services. A further limitation is that the sample size is small and based in one city, so the findings are not generalisable. However, a small-scale study has the advantage of being able to explore in greater detail the experiences of individual households, and to understand the perspectives of people who are subject to policies of immigration control. The results are indicative of the potential consequences of the NRPF policy in one city, however, there is transferable learning for other contexts where access to social protection is dependent on immigration status.

2.2. Analysis

Interviews were analysed using directive content analysis by an iterative process of coding using *a priori* themes. In order to explore whether participants were experiencing neglect resulting from discriminatory legislation and policy, the statutory definition of child neglect for England was used to generate initial themes:

Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to provide adequate food, clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate

care-givers); ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs. (HM Government, 2015)

The category of 'maternal substance abuse' was not included as it was considered to be more applicable to parental, rather than statutory neglect, and the category of 'access to medical care or treatment' was also discarded because UK healthcare is provided through the NHS rather than at a municipal level and is subject to different legislation than children's social services. For ease of analysis 'unresponsiveness to a child's basic emotional needs' was combined with 'failing to protect a child from physical and emotional harm or danger'. During the initial process of coding, additional data was coded into a new theme of 'positive experiences of individual social workers'. No examples were discovered in the transcripts which fitted the theme of 'adequate supervision'.

3. Findings

All remaining indicators of neglect were referred to by more than half of participants, and by far the most common references in the interviews were to lack of food, clothing and shelter (see Table 2). The themes are discussed in turn below.

3.1. "Failing to Provide Adequate Food, Clothing and Shelter"

All fifteen families discussed not having adequate food, clothing or shelter. This was the theme which had the greatest number of references in the transcripts, and appeared to corroborate previous research which identifies this as a concern (Dexter, Capron, & Gregg, 2016; Farmer, 2017; Jolly, 2017)

3.1.1. Experiences of Approaching to Ask for Support and Being Turned Away

Five families described being refused support by children's services after seeking help for destitution, although the reasons given varied. Two described physically arriving at the children's services office to present as destitute, but were told that they couldn't self-refer, and had to be referred by another agency. However, having

Table 2. Coding grid.

Theme	No. of Sources	No. of References
1) Food, clothing and shelter	16	68
Turned away from support	7	13
Inadequate levels of support	13	38
Relocation	3	5
Legal restrictions on access	8	14
2) Physical, emotional harm or danger / emotional needs	12	28
Consequences	3	6
Domestic Violence	2	4
Emotional Stress of having NRPF	7	9
Impact on child	4	5
3) Positive Experiences	9	11
Gratitude for support	7	9
Good social workers	2	2

a referral from another professional didn't always result in provision of services, or even a needs assessment:

In the beginning, when my daughter was about a year old, she wasn't gaining any weight because of lack of fund[s] to get food, and the nurse wrote a letter for me to go down to...the social service place to see if they could give me a food bank paper to get some food. I explain [it] to them but, because then my immigration paper wasn't sent in to the Home Office yet, they didn't help me at all, they sent me away without no help. You know, in [spite of] the fact of the child was underweight and all that, they didn't help me at all.

There were clear links between immigration status and lack of entitlement to services, even after concerns about malnutrition had been raised. Incidences of referrals being closed without assessment or referral to a more appropriate agency are a major protection gap and appear to be a wider issue. The serious case review into the death of Lynne Mutumba recorded that it took four referrals from two different agencies before contact was made with the family (Smith, 2018, p. 7). This lack of response when a family approaches a local authority when destitute is indicative of the statutory nature of this neglect. Another family was erroneously told that their NRPF status excluded them from local authority children's services support. In two cases support was only offered when homeless families arrived at the office with their bags packed following eviction, having previously been instructed that support couldn't be provided without an eviction notice. Another who had been illegally subletting with a friend was told to go back to stay with them:

I couldn't pay my rent and I get evicted, and even when I go to them for help, they wouldn't help me. I was home one day, no light, no electric for the week-

end. No food for the kids, and they said they can't help me.

When destitute families were referred to children's services but support wasn't provided, a process of attrition developed between referring agencies and social workers, with families repeatedly referred and refused before support was provided:

Anyway, they keep going back and forward, back and forward, and each time they tell me I go back to [name of support worker] and he always give me advice, and he always tell me 'ring and tell them this and tell them that'.

One family was referred to children's services but was refused support three times. It later emerged that support had been refused because they had mistakenly asked for Housing Act (1996) support (which the family *wasn't* entitled to because of their irregular migration status) rather than Children Act (1989) support (which the family *was* entitled to):

So, when I got there, I went to this MASH building by the highway and they said, no I'm in the wrong place, so I spoke with the receptionist. I said I'm homeless, I need a place for my daughter and myself, he said no, that they can't do that. Then I called [name of agency] again, he said 'no, go back to the receptionist and say to her you're here and you need help under section 17, Children's Act'. When I went back and I said that to her, she now said 'ok, sit down, I will call you someone', so she call one of the social worker[s]. So I spoke with that person on the phone and she said, ok, fine she will come and she ask me a few things, she ask me to wait.

This refusal of support on the technicality of the words used to ask for help illustrates the process of gatekeep-

ing according to immigration status, and that consideration of entitlements precedes assessment of need (NRPF Network, 2017; Price & Spencer, 2015).

3.1.2. Level of Support too Low

Although one parent said that the amount of financial support from children's services was adequate, most found that the amount of money they received was too low to provide for their family:

Yeah, the people who put me here, they gave me, 150 every two weeks, which runs out anyway, it runs out. It happens every time, every time. Every time. I've run out of the 150 now, but it's written that if you run out of your money, there is nothing they can do for you.

This suggests that the amount of money provided is based on a pre-existing calculation of the minimum subsistence support, rather than assessed need (Smith, 2018), despite statutory guidance that assessments should be child-centred, and based on a child's needs and views (HM Government, 2015). The most frequently raised concern was that the amount of financial support given was too low to be able to eat a balanced diet. Nine interviewees didn't always have enough to eat, and four described missing meals or cutting down on food so their child could eat. One mother insisted that there was always food to eat, but had very low expectations of what counted as adequate food:

Nah nah nah, I've always got food in my house. My Nan always said, 'if you've got sugar and water, you've got in the house to drink!'

Four families found that repeating basic meals was a means of ensuring that money lasted, but found children's services to be irresponsive to the reality of running out of money:

You really have to eat the same meals for almost a week. yeah, because I have to explain to her [the daughter] that this is what I've got, and this is what I'm gonna offer [her], there's nothing else I can do because I've called and called the children's service, I've called the social worker and I've said to him, 'please do something'.

The lack of entitlement to other benefits such as free school meals exacerbated the difficulties of not having enough money:

I find it very hard, I've given my youngest packed lunch now, and the eldest in secondary school, she's not having any school dinners coz I can't afford it....They have given her the school lunch that you have to pay for, but then sometimes she just gets what's left, she eat yesterday. She said, you know, I'll have to start

paying for it, [and] I say I can't afford it, so I'll have to write a letter to the school to say that I'm on the no recourse to public funds team, so therefore I can't afford the school dinners so any help that they can provide for me with that.

Others found that they didn't have enough money for adequate clothing, which was especially difficult for growing children, or during cold weather. Another mother spoke about the sacrifices she made to ensure her child was provided for:

It's very very, very tough with me. I have to chop off my hair because I can't be making my hair and there is no point spending that kind of money when I've got hair. I literally look like this for my son to be happy, instead of me to buy essentials for making hair, I buy pairs of shoes so that he looks better, you know, so it's really, really tough, it is very tough honestly, I've run out of money right now, my 150 is finished because I paid for trip on Monday for his school, I have to go with him to a place, you know, I cannot say he shouldn't go, that means I'm depriving him of a childhood, that means I have to pay that money, £25 from 150, you can imagine.

Some were living in inadequate accommodation. One mother described a rodent infestation due to a number of holes where rats entered. She complained to children's services, but the problem remained. She maintained that the stress of this was a contributing factor to the depression she had been diagnosed with. Another described her son having nowhere to play and lived in cramped conditions where the bed was too small, so she gave him her bed and slept on the floor. Facilities in the houses were also sometimes inadequate for the number of families accommodated in the building:

We all don't have washing machines in our rooms. Yeah, we are nineteen [people], and we have just one washing machine, and nineteen with kids, that's all together. I literally wash clothes [at] twelve midnight, when everybody's sleeping, and I finish [at] three am and I have to take my child to school in the morning, eight am, it's really crazy.

3.1.3. Relocation

Others expressed concern about frequent moves between different temporary accommodation. As well as making it difficult to access schooling, this impacted section 17 entitlements because to be eligible, families had to prove they were habitually resident in the area:

So, I went to...children's services, and they said, no, they can't accommodate us because I've moved to Birmingham. I said I'm not living in Birmingham, someone is just giving us help. I'm just squatting. They

said no because now it's been up to six months I've moved...to Birmingham. I said, 'my daughter, she still come to school for that 6 months in [midlands borough]'. They said no, because I've moved....We don't live in [midlands borough] anymore.

Two families had been relocated to Birmingham from London, a 150-mile trip from where they were previously living. It is increasingly common for local authorities in London to rehouse people in areas of cheaper housing, but this has a particularly negative effect on migrants in the absence of employment opportunities and public funds who are reliant on support networks, a point noted by the Serious Case Review of the death of Lynne Mutumba (Smith, 2018). The extent of the isolation that this caused became apparent in one mother's account of her arrival in the West Midlands from London:

We had to move away. We didn't even know where. I couldn't say no, if I had the choice I wouldn't because we were not prepared. We didn't plan it...and when we got here, it was unfortunate. There was no electricity, there was no curtain, there was no bedding, there was nothing, we slept in the cold, we got no heat, and we could not cook. There was nothing, and we came in the night, you know, so children shouldn't live like that, nobody should live like that. The social services arrange, and they just gave me the address and said, you know, 'go to this place, and there will be somebody waiting there for you', and it was on a Friday. So, when we got here, it was really late, even if I wanted to go back to London, I wouldn't have been able to, and he [the landlord] said to me, 'if you don't like it you can go back to where you are coming from', because obviously he thought 'yeah, she's desperate'.

3.1.4. Positive Experiences

Not all experiences were negative. Seven families were positive about the support they were receiving from children's services, or named a specific social worker as particularly helpful. Positive experiences were by no means universal, and one family who had expressed satisfaction during the interview subsequently disclosed after the tape had been switched off that they were not happy with their social worker, and that he was frequently rude and aggressive to them. However, the majority didn't express negative opinions about social workers, and when life was a struggle did not blame individual practitioners, seeing it as a symptom of wider societal issues:

Some will say, 'oh, it's hard'. Come on, we live in a hard society. But you yourself have to make yourself not in that situation. You get where I'm coming from?

Other families had a nuanced view of the complexities that social workers were negotiating, thinking the best of their intentions, even when support was lacking:

I don't know, it's difficult, but they are trying, I wouldn't say they are not trying, it's a hard job for them as well, they are really trying, I might not be the only person who put a complaint on his table, it might be up to ten, twenty, and he's got to fix everybody. For me, he's trying his best, because he's only human....But, it's alright, it's fine.

3.1.5. Legal Restrictions on Access

When families were refused help, they commonly identified the cause as legislation or policy, rather than failings of children's services. The NRPF rule was mentioned by name by five families as a cause of difficulty:

It's very difficult not giving no recourse to public fund to single mums, most especially because how do they expect them to cope, it's a very difficult situation, you know. If we don't look after these kids, they will also take away the kids from us, that we are irresponsible, we can't look after the kids, but how can we look after kids when we don't have the resources to work?

Another government policy that was identified was the restriction on the right to work, which four families referred to and was a particular source of frustration:

[We] do an application to remain and they refuse it. My wife, with me, and I've got one daughter, she's four years now. And they refused me and instructed me not to work. I'm a hard worker. And now it's like they tied my hands not to work.

3.2. *Physical and Emotional Harm or Danger/Basic Emotional Needs*

3.2.1. Consequences of NRPF

Some cases of physical or emotional harm that families faced were directly related to their destitution and social exclusion. One father described how his wife had a miscarriage following the stress of becoming homeless, and depression and suicidal ideation was mentioned by more than one family:

Sometimes you just don't know what to do, where to go, who to turn to. I mean, I know a lot of people in the same situation like myself think of even committing suicide cos they just don't want, I mean you think of going back home, but when you're stuck with the kids and all of that it's a very hard decision to make, so you try to you know, find a way to survive here.

Another mother spoke frankly about how her daughter was conceived through a transactional sexual relationship, which she entered into in order to survive because she wasn't eligible to work or claim benefits:

Yeah, you had to, so for instance I had the boy first, then I end up having a little girl because I got involved with somebody just to make two ends meet really, you know what I mean, and really and truly you don't...you didn't want to do that, but then you find yourself doing things.

3.2.2. Domestic Violence

The interplay between domestic violence and immigration control is well documented (Anitha, 2008), and two participants were survivors of domestic violence. One talked in detail about how she didn't seek help because of her immigration status:

I don't want to talk about that stuff because it's [a] very hard part of my life, but we end up like separated, and...I did not know before I could get help in this country. Coz when I got the spouse visa the Home Office made it like, 'you depend off this man. If he left you, all you have to do is go back to your country. There's nothing that we could do for you'. They gave me no recourse to public funds. So, I was saying to myself, I have to just stay in the house and just be patient. But it happened one night that I couldn't stay there because he was getting crazy...so I called the Police and they explained me [that] even [if] you don't have recourse to public funds, you can't stay in a marriage where you're suffering. You should go and ask advice, which is what I did.

However, when the mother approached children's services, rather than support her and the child under section 17, they contacted the father to ask if he could take the child, despite a court order preventing access:

I explain to them my husband doesn't have any contact with me because of police action which doesn't give him access, not talk to me, anything. We went to court because he wanted [to] see his child, and the court established that I am having the care of the child but he could see him every two weeks in a contact centre, but they say they have to speak to him. Apparently, that's what they ask him. And they did ask that to me too. In the assessment they say, 'right we're doing that', and I explain to them why he couldn't visit us, so this was...this is like something that, really, this is the hardest thing that I have experienced in this country because she is just a child. How people can go to this extent, it's because of the financial help you [are] asking...they trying to separate me from my daughter. It's even worse than what happened to me with the Home Office.

3.2.3. Emotional Stress

Seven families talked about the emotional stress that they faced, waiting to hear from the Home Office or due

to the lack of support they were receiving from children's services. One described feeling anxious if she saw a car parked outside her house, thinking that "they're watching me or, you know, somebody's gonna come and get me". This contributed to the depression for which she had been briefly hospitalised. The fear of being sent back to countries in which participants had not lived for many years in some cases, or where the children had never even been was a constant fear. However, parents felt they had to show resilience because of fears over the impact on the children:

It's difficult, honestly it is. I'm not happy with the situation at all, but I just have to be strong because of him [her son], because if I fall sick and have some mental issues, I'm gonna lose him, so I just have to. Sometimes I'm like, oh, take it easy and be strong for him, he needs you.

3.2.4. Impact on Child

Families described children as being unhappy and isolated, sometimes staying indoors all day, with few friends because of being moved away from previous support networks, and more than one expressed a feeling that welfare professionals cared more about people's immigration status than child welfare:

I'm really shocked and disappointed about the service and how they deal with people there....I think that what must be most important for them is, like, the safeness of my child and its happiness, and they are not taking account of them. Is this...they [are] thinking about that people coming in this country all the time. They make them serve [sic] in this situation without asking why are they in this situation? They just think, like, I'm from abroad, I'm from Africa. I came here, and now [I am] overstaying. They don't care about my child and the fact that she's my child, she has to be in my responsibility.

Other parents noticed changes in behaviour in their children which bore similarities to symptoms of neglect (Hildyard & Wolfe, 2002):

Yeah, she is, really, I could tell she's really angry. Sometimes she's moody and, you know, my son will say, 'what, you moody again? What's going on?' Sometimes she will be like, 'nothing', and sometimes she'll say, 'oh, I miss my friends', or 'I wanna go back to London', or 'why can't we go out', you know, which is something...children of that age would love to do. Or she wants her friends to visit her, that's what she used to do. You know, so now she really can't have that, so yeah, she is upset.

4. Analysis

4.1. Statutory Neglect

Most current definitions of neglect focus on individual aspects, rather than collective failures, and it is common to restrict the definition to relate to actions by a parent or carer (HM Government, 2015; US Department of Health and Human Services, 2010, p. 6). However, concepts of neglect are contested, and evolve over time and in different contexts (Corby, Shemmings, & Wilkins, 2012). Erikson and Egeland (2002) acknowledge societal neglect when there is a failure to provide support so parents can meet children's needs, and the World Health Organisation's report of the *Consultation on Child Abuse Prevention*, while focusing on the immediate family and care givers, does acknowledge that: "maltreatment can occur because of wider societal systems, organisations and processes" (WHO, 1999). This point is taken up by the *World Report on Violence and Health* (Krug, Dahlberg, Mercy, Zwi, & Lozano, 2002, p. 13), and Sethi et al. (2013) apply this ecological perspective on neglect to a European context, including structural factors such as law and policy in their analysis of neglect. The concept of 'statutory neglect' builds on this acknowledgment of the wider societal factors which contribute to neglect, describing a situation where neglect is a direct consequence of government policy or legislation.

4.1.1. Experiences which are Akin to Neglect

The intention is not to provide a detailed diagnosis or assessment for the children and families who took part in the study, but to illustrate situations which are indicative of the child welfare implications of 'hostile environment' exclusionary policies. All families who took part in the interviews mentioned at least one factor which corresponded with the definition of neglect. However, 'neglect like' factors weren't evenly distributed across all themes. English, Thompson, Graham and Briggs (2005) note that some forms of neglect have a more significant impact on child development than others. Poor home safety, cleanliness and lack of shelter result in impaired language and other developmental problems in children more than other forms of neglect. Worryingly, concerns about a failure to provide adequate food, clothing and shelter were the most commonly reported, being mentioned by all participants. Concerns about the suitability of the accommodation that was provided were frequently mentioned, but even more common were concerns about diet—nearly two thirds of families reported that they didn't have enough resources for a balanced diet. Hobbs and Wynne (2002) identify hunger and diet issues as one of the significant indicators of child neglect, and Horwath (2007, p. 31) identifies nutritional neglect as an area where societal factors have an impact.

4.1.2. Link with Government Policy

When discussing the reasons for their situation, families consistently talked about the effect of government policy, 'NRPF' was frequently mentioned in connection with the inability to access decent housing or to have enough resources to maintain a balanced diet, as was the lack of a right to paid employment. Similarly, when being denied support, families were often told by social workers that the reason was because of the family's immigration status. An acknowledgment of the structural constraints of immigration law and policy was therefore explicitly acknowledged by both families and social workers. Notably, although families reported neglectful treatment, when blame was articulated, it wasn't towards individual social workers, or even children's services as a corporate body, but towards "the government" or the "Home Office".

4.1.3. International Context

This article has focused on the UK, in a specifically English urban context, but the processes of governmental exclusion of undocumented migrants from welfare services, and gatekeeping by public officials is a common theme in literature from both Europe and North America, most commonly in relation to healthcare access (Cuadra, 2012; Woodward, Howard, & Wolffers, 2014), and Ruiz-Casares, Rousseau, Derluyn, Watters and Crepeau (2010) highlight the gap between international legal frameworks on the right to health, such as the Universal Declaration of Human Rights, and restrictions on access to healthcare in the US, Canada and Europe.

Tervonen and Enache (2017) identify a similar process of everyday bordering experienced by Roma migrants in Helsinki, where the Finnish central government's refusal to respond to the welfare needs of Roma families is described as a "policy of no policy", a situation which bears marked similarities to the concept of statutory neglect, and where government at a local level has been left to respond with a policy of gatekeeping and ambivalence.

In an inversion of the UK and Finnish situations, Furman, Ackerman, Loya, Jones and Egi (2012) describe the US context where in the absence of laws at a federal level, states such as Alabama have passed restrictive laws which criminalise paid employment for undocumented migrants, presenting ethical dilemmas for social workers when working with undocumented migrants, a concern that is also picked up by Jonsson (2014) in a Swedish context.

5. Conclusion

This article has explored on a micro level of one British city some of the experiences of undocumented migrant families accessing social work services in the UK, identifying that children and families exhibit the commonly understood signs of neglect, and that these are a conse-

quence of the government's 'hostile environment'. The concept of statutory neglect has applicability beyond the UK, however, both in government neglect of the welfare needs of undocumented migrants in other countries of the global north, but more broadly to any situation where a state refuses to legislate for the welfare of a particular group of children.

Acknowledgements

Funding for fieldwork costs was provided by the Social Workers Education Trust, and the author received a bursary from the University of Birmingham.

Conflict of Interests

The author declares no conflict of interests.

References

- Anitha, S. (2008). No recourse, no support: State policy and practice towards South Asian women facing domestic violence in the UK. *British Journal of Social Work*, 40(2), 462–479. <https://doi.org/10.1093/bjsw/bcn160>
- Birmingham City Council v Amalea Clue Secretary of State for the Home Department v Shelter* 2010 EWCA Civ 460. Retrieved from 2h12ms1eq7wnva373scllpi9-wpengine.netdna-ssl.com/wp-content/uploads/2016/06/R-Clue-v-Birmingham-2010-EWCA-Civ-460.pdf (UK)
- Birmingham City Council. (2013). *Children and families with no recourse to public funds: A report from overview & scrutiny*. Birmingham City Council. Retrieved from www.birmingham.gov.uk/downloads/file/432/no_recourse_to_public_funds_december_2013
- Cabinet Office. (2017). *Race disparity audit: Summary findings from the ethnicity facts and figures website*. London: HM Government. Retrieved from www.gov.uk/government/publications/race-disparity-audit
- Children Act* 1989 c.41, s 17. Retrieved from www.legislation.gov.uk/ukpga/1989/41/section/17 (UK)
- Children Act* 2004 c. 31, s 11. Retrieved from www.legislation.gov.uk/ukpga/2004/31/section/11 (UK)
- Corby, B., Shemmings, D., & Wilkins, D. (2012). *Child abuse: An evidence base for confident practice* (4th ed.). Maidenhead: Open University Press.
- Cuadra, C. B. (2012). Right of access to health care for undocumented migrants in EU: A comparative study of national policies. *European Journal of Public Health*, 22(2), 267–271. <https://doi.org/10.1093/eurpub/ckr049>
- Cunningham, S., & Tomlinson, J. (2005). "Starve them out": Does every child really matter? A commentary on Section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act, 2004. *Critical Social Policy*, 25(2), 253–275. <https://doi.org/10.1177/0261018305051330>
- De Genova, N. P. (2002). Migrant "illegality" and deportability in everyday life. *Annual Review of Anthropology*, 31, 419–447. <https://doi.org/10.1146/annurev.anthro.31.040402.085432>
- Dexter, Z., Capron, L., & Gregg, L. (2016). *Making life impossible: How the needs of destitute migrant children are going unmet*. London: The Children's Society.
- English, D. J., Thompson, R., Graham, J. C., & Briggs, E. C. (2005). Toward a definition of neglect in young children. *Child Maltreatment*, 10(2), 190–206. <https://doi.org/10.1177/1077559505275178>
- Equality Act* 2010 c. 15. Retrieved from www.legislation.gov.uk/ukpga/2010/15/contents (UK)
- Erikson, M., & Egeland, B. (2002). Child neglect. In J. B. Klika & J. R. Conte (Eds.), *The ASPSAC handbook on child maltreatment* (pp. 3–20). Thousand Oaks, CA: Sage.
- Farmer, N. J. (2017). "No recourse to public funds": Insecure immigration status and destitution—The role of social work? *Critical and Radical Social Work*, 5(3), 357–367. <https://doi.org/10.1332/204986017X15029697778471>
- Furman, R., Ackerman, A. R., Loya, M., Jones, S., & Egi, N. (2012). The criminalization of immigration: Value conflicts for the social work profession. *Journal of Sociology and Social Welfare*, 39(1), 169–185.
- Hildyard, K. L., & Wolfe, D. A. (2002). Child neglect: Developmental issues and outcomes. *Child Abuse & Neglect*, 26(6), 679–695. [https://doi.org/10.1016/S0145-2134\(02\)00341-1](https://doi.org/10.1016/S0145-2134(02)00341-1)
- Hill, A. (2017). "Hostile environment": The hardline Home Office policy tearing families apart. *The Guardian*. Retrieved from www.theguardian.com/uk-news/2017/nov/28/hostile-environment-the-hard-line-home-office-policy-tearing-families-apart
- HM Government. (2015). Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children. *HM Government*. Retrieved from www.gov.uk/government/publications/working-together-to-safeguard-children --2
- Hobbs, C. J., & Wynne, J. M. (2002). Neglect of neglect. *Current Paediatrics*, 12(2), 144–150. <https://doi.org/10.1054/cupe.2001.0266>
- Horwath, J. (2007). *Child neglect: Identification and assessment*. Basingstoke: Palgrave.
- Housing Act* 1996 c.52. Retrieved from www.legislation.gov.uk/ukpga/1996/52/contents (UK)
- Humphries, B. (2004). An unacceptable role for social work: Implementing immigration Policy. *British Journal of Social Work*, 34, 93–107. <https://doi.org/10.1093/bjsw/bch007>
- IFSW. (2014). Global definition of social work. *International Federation of Social Workers*. Retrieved from ifsw.org/get-involved/global-definition-of-social-work
- JCWI. (2014). *Immigration Act 2014: Summary of provisions*. Joint Council for the Welfare of Immi-

- grants, UK. Retrieved from www.jcwi.org.uk/sites/default/files/Immigration%20Act%202014%20Summary%20Provisions.pdf
- Jolly, A. (2017). "You just have to work with what you've got": Practitioner research with precarious migrant families. *Practice*, 30(2), 1–18. <https://doi.org/10.1080/09503153.2017.1385756>
- Jonsson, J. H. (2014). Local reactions to global problems: Undocumented immigrants and social work. *British Journal of Social Work*, 44, 35–52. <https://doi.org/10.1093/bjsw/bcu042>
- Krug, E., Dahlberg, L., Mercy, J., Zwi, A., & Lozano, R. (2002). *World report on violence and health*. Geneva: World Health Organisation. Retrieved from apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf;jsessionid=D76E0D648AB46110584BB87C0A22EF83?sequence=1
- Lahman, M. K. E., Mendoza, B. M., Rodriguez, K. L., & Schwartz, J. L. (2011). Undocumented research participants: Ethics and protection in a time of fear. *Hispanic Journal of Behavioral Sciences*, 33(3), 304–322. <https://doi.org/10.1177/0739986311414162>
- Lind, J. (2017). The duality of children's political agency in deportability. *Politics*, 37(3), 288–301.
- May, T. (2016). Statement from the new Prime Minister Theresa May. *Gov.UK*. Retrieved from www.gov.uk/government/speeches/statement-from-the-new-prime-minister-theresa-may
- Nationality, Immigration and Asylum Act 2002 s. 3. Retrieved from www.legislation.gov.uk/ukpga/2002/41/schedule/3 (UK)
- NRPF Network. (2017). *Assessing and supporting children and families who have no recourse to public funds (NRPF): Practice guidance for local authorities*. Islington London Borough Council. Retrieved from guidance.nrpfnetwork.org.uk/reader/practice-guidance-families
- Price, J., & Spencer, S. (2015). *Safeguarding children from destitution: Local authority responses to families with 'no recourse to public funds'*. Oxford: University of Oxford. Retrieved from www.compas.ox.ac.uk/2015/safeguarding-children-from-destitution-local-authority-responses-to-families-with-no-recourse-to-public-funds
- Randall, A. (2015). *Challenging the destitution policy: Civil society organisations supporting destitute migrants* (Working Paper 131). University of Birmingham.
- Ruiz-Casares, M., Rousseau, C., Derluyn, I., Watters, C., & Crepeau, F. (2010). Right and access to health-care for undocumented children: Addressing the gap between international conventions and disparate implementations in North America and Europe. *Social Science & Medicine*, 70(2), 329–336. <https://doi.org/10.1016/j.socscimed.2009.10.013>
- Sethi, D., Bellis, M., Hughes, K., Gilbert, R., Mitis, F., & Galea, G. (2013). *European report on preventing child maltreatment*. Geneva: World Health Organisation.
- Sigona, N., & Hughes, V. (2012). *No way out, no way in. Irregular migrant children and families in the UK*. Oxford: Compas. Retrieved from www.compas.ox.ac.uk/2012/pr-2012-undocumented_migrant_children
- Smith, F. (2018). *Serious case review "Ellie"*. Kent: Medway Safeguarding Children Board. Retrieved from www.mscb.org.uk/pdf/Ellie%20Overview%20Report%20-%20Final1.pdf
- Social Mobility and Child Poverty Commission. (2016). *The social mobility index*. UK Government. Retrieved from www.gov.uk/government/publications/social-mobility-index
- Tervonen, M., & Enache, A. (2017). Coping with everyday bordering: Roma migrants and gatekeepers in Helsinki. *Ethnic and Racial Studies*, 40(7), 1114–1131. <https://doi.org/10.1080/01419870.2017.1267378>
- UKVI. (2016a). *Immigration Act: Overview*. London: Home Office. Retrieved from www.gov.uk/government/publications/immigration-bill-2015-overarching-documents/immigration-bill-201516-overview-factsheet
- UKVI. (2016b). *Public funds*. London: Home Office. Retrieved from <https://www.gov.uk/government/publications/public-funds>
- University of Birmingham. (2018). *Code of practice for research*. Retrieved from www.birmingham.ac.uk/Documents/university/legal/research.pdf
- US Department of Health and Human Services. (2010). *The child abuse prevention and treatment Act 2010: Including adoption opportunities & the abandoned infants assistance Act* (CAPTA P.L. 111-320 Booklet). Washington, DC: US Department of Health and Human Services. Retrieved from www.acf.hhs.gov/cb/resource/capta2010
- Webber, F., & Peirce, G. (2012). *Borderline justice: The fight for refugee and migrant rights*. London: Pluto Press.
- WHO. (1999). *Report of the consultation on child abuse prevention, 29-31 March 1999*. Geneva: WHO.
- Woodward, A., Howard, N., & Wolffers, I. (2014). Health and access to care for undocumented migrants living in the European Union: A scoping review. *Health Policy and Planning*, 29, 818–830. <https://doi.org/10.1093/heapol/czt061>
- Yuval-Davis, N., Wemyss, G., & Cassidy, K. (2018). Everyday bordering, belonging and the reorientation of British immigration legislation. *Sociology*, 52(2), 228–244. <https://doi.org/10.1177/0038038517702599>

About the Author



Andy Jolly is a Doctoral Researcher in Social Policy at the University of Birmingham, England, and Research Associate at the Institute for Community Research and Development (ICRD) at the University of Wolverhampton. He is a social worker by background, and previously coordinated a project supporting undocumented migrant families who had no recourse to public funds. His current research interests are in undocumented migration, social care and household food security.